

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

| | | |
|---------------------------|---|-----------|
| HENRY P. MIDDLEBROOK, |) | |
| |) | |
| Plaintiff, |) | 8:05CV409 |
| |) | |
| v. |) | |
| |) | |
| BLUE CROSS BLUE SHIELD OF |) | ORDER |
| NEBRASKA, |) | |
| |) | |
| Defendant. |) | |
| |) | |

This matter is before the court on defendant's Motion for Substitution of Party Defendant (Filing No. 15). In its motion, the defendant Blue Cross Blue Shield is asking that the court recognize Michael O. Leavitt, Secretary of the U.S. Department of Health and Human Services, as the "real party in interest." Blue Cross Blue Shield argues that because it is merely a contracted fiscal intermediary for the Centers for Medicare and Medicaid Services, an agency of the U.S. Department of Health and Human Services, that pursuant to 42 U.S.C. § 1395u and 42 C.F.R. 421.5 (b) the court should substitute the Secretary as the defendant in this action.

A review of the materials submitted by defendant in response to the court's December 6, 2005 Order, reveals that this is a dispute concerning plaintiff's alleged debt for services paid for by Medicare. Therefore, pursuant to 42 U.S.C. § 1395u and 42 C.F.R. 421.5(b) the court will grant defendant's motion and recognize Michael O. Leavitt Secretary of the United States Department of Health and Human Services as the defendant in this case. The clerk of court shall modify the court's records accordingly.

IT IS ORDERED:

1. That defendant's Motion for Substitution of Party Defendant (Filing No. 15) is granted;

2. The clerk of court shall modify the court's records accordingly.

DATED this 10TH day of April, 2006.

BY THE COURT:

S/ F. A. Gossett
United States Magistrate Judge